

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-CV-10521-GAO

BETTY ANNE WATERS, as Administratrix of the
Estate of KENNETH WATERS,

Plaintiff

v.

TOWN OF AYER, NANCY TAYLOR-HARRIS,
in Her Individual Capacity, ARTHUR BOISSEAU,
In His Individual Capacity, BUDDY DECOT, In
His Individual Capacity, WILLIAM ADAMSON,
in His Individual Capacity, PHILIP L. CONNORS,
in His Individual Capacity, and JOHN DOE and
JANE DOES 1-16, in Their Individual Capacities,

Defendants

DEFENDANTS' MOTION
PURSUANT TO FED. R. CIV. P. 45(e)
TO HOLD ROSEANNA BAGGESEN
IN CONTEMPT AND TO COMPEL
HER ATTENDANCE AT
DEPOSITION

Now come defendants Town of Ayer, Nancy Taylor-Harris, Arthur Boisseau, William Adamson and Philip Connors (the "Defendants"), and hereby move pursuant to Fed.R.Civ.P. 45(e) that this Court issue an order holding Roseanna C. Baggesen a/k/a Roseanna Perry a/k/a Roseanna C. Peterson a/k/a Rosie A. Perry ("Ms. Baggesen") in contempt and ordering her to testify at deposition in the above-referenced matter.

As grounds therefor, the Defendants state that Ms. Baggesen was served with two deposition subpoenas on March 22, 2007 and April 6, 2007. Exhibit A and Exhibit B, Deposition Subpoenas. The process server confirmed Ms. Baggesen's address when the subpoena was served on April 6, 2007. Exhibit B. She did not appear at her May 4, 2007 deposition or communicate any reason for her failure to appear to counsel. Exhibit C, Deposition Transcript.

Ms. Baggesen is a highly relevant fact witness with potentially valuable information regarding the allegations raised in plaintiff's Complaint. The defense should therefore be permitted to depose her prior to trial.

WHEREFORE, the Defendants respectfully request that this Court hold Ms. Baggesen in contempt and order her to appear at deposition at Defendants' counsel's office on a date acceptable to the parties, as set forth in a subpoena to be served together with such order as the Court may issue in response to this motion.

DEFENDANTS,

By their attorneys,

/s/ Joseph L. Tehan, Jr.
Joseph L. Tehan, Jr. (BBO# 494020)
Gregg J. Corbo (BBO# 641459)
Kopelman and Paige, P.C.
101 Arch Street
12th Floor
Boston, MA 02110-1109
(617) 556-0007

314437/AYER-WATERS/0053

CERTIFICATION OF COMPLIANCE PURSUANT TO
LOCAL RULES 7.1(A)(2) AND 37.1(A)

I, the undersigned Joseph L. Tehan, Jr., hereby certify that the provisions of Local Rule 7.1(A)(2) and 37.1(A) have been complied with prior to filing this Motion to Compel. I conferred with Robert Feldman, Esq., local counsel for the plaintiff, on May 9, 2007 regarding the issues contained in this Motion to Compel.

/s/ Joseph L. Tehan, Jr.
Joseph L. Tehan, Jr.